

The Commonwealth of Massachusetts

JOURNAL OF THE HOUSE.



WEDNESDAY, JUNE 3, 2009.

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JOURNAL OF THE HOUSE.

Wednesday, June 3, 2009.

Met at according to adjournment eleven o'clock A.M., with Mr. Donato of Medford in the Chair (having been appointed by the Speaker, under authority conferred by Rule 5, to perform the duties of the Chair).

At the request of the Chair (Mr. Donato), the members, guests and employees joined with him in reciting the pledge of allegiance to the flag.

Pledge of
allegiance.

Silent Prayer.

At the request of Ms. Gregoire of Marlborough, the members, guests and employees then stood in a moment of silent tribute to the memory Francis J. "Bud" Foley who passed away Thursday, May 28, 2009, after a long illness. Bud was a retired state trooper, a former Marine, a former Marlborough city councilor and a community activist.

Francis J. "Bud"
Foley.

Statement Concerning Representative Scibak of South Hadley.

A statement of Mrs. Haddad of Somerset concerning Mr. Scibak of South Hadley was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Mr. Scibak of South Hadley, is unable to be present in the House Chamber for today's sitting due to a previously scheduled doctor's appointment. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Scibak of South
Hadley.

Statement Concerning Representative Wallace of Boston.

A statement of Mrs. Haddad of Somerset concerning Mr. Wallace of Boston was spread upon the records of the House, as follows:

MR. SPEAKER: I would like to call to the attention of the House the fact that one of our colleagues, Mr. Wallace of Boston will be unable to be present in the House Chamber for a portion of today's sitting due to illness. Any roll calls that he may miss today will be due entirely to the reason stated.

Statement
concerning
Representative
Wallace of
Boston.

Resolutions.

The following resolutions (filed with the Clerk) were referred, under Rule 85, to the committee on Rules:

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Andrew Braunsdorf on receiving the Eagle Award of the Boy Scouts of America;

Andrew
Braunsdorf.

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Jordan Glynn on

Jordan

receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Alec Mendes on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. D'Amico of Seekonk) congratulating Nicholas Riccitelli on receiving the Eagle Award of the Boy Scouts of America;

Resolutions (filed by Mr. Fernandes of Milford) congratulating Matteo Bon Tempo on earning the Eagle Scout Award;

Resolutions (filed by Mr. Fernandes of Milford) congratulating Gabriel "Gabe" Lanciano on earning the Eagle Scout Award;

Resolutions (filed by Mr. Fernandes of Milford) congratulating Jonathan Lincoln on earning the Eagle Scout Award;

Resolutions (filed by Mr. Linsky of Natick) congratulating Hollis W. Plimpton IV on receiving the Eagle Award of the Boy Scouts of America; and

Resolutions (filed by Representatives Torrisi of North Andover, Lantigua of Lawrence, Finegold of Andover, L'Italien of Andover and Dempsey of Haverhill) honoring Joseph S. McManus on the occasion of his retirement;

Mr. Binienda of Worcester, for the committee on Rules, reported, in each instance, that the resolutions ought to be adopted. Under suspension of the Rules, in each instance, on motion of Mr. Kulik of Worthington, the resolutions (reported by the committee on Bills in the Third Reading to be correctly drawn) were considered forthwith; and they were adopted.

Glynn.

Alec
Mendes.

Nicholas
Riccitelli.

Matteo
Bon Tempo.

Gabriel
Lanciano.

Jonathan
Lincoln.

Hollis W.
Plimpton IV.

Joseph S.
McManus.

Petitions.

Petitions severally were presented and referred as follow:

By Mr. Dwyer of Woburn, petition (accompanied by bill, House, No. 1112) of James J. Dwyer and others (with the approval of the mayor and city council) relative to authorizing the city of Woburn to convey certain land;

By Representative Madden of Nantucket and Senator O'Leary, joint petition (accompanied by bill, House, No. 1121) of Timothy R. Madden and Robert A. O'Leary (by vote of the town) relative to the historic district commission of the town of Nantucket;

By the same members, joint petition (accompanied by bill, House, No. 1122) of Timothy R. Madden and Robert A. O'Leary (by vote of the town) relative to amending the responsibilities of the Nantucket Planning Economic Development Commission;

By Representative Nyman of Hanover and Senator Kennedy, joint petition (accompanied by bill, House, No. 1123) of Robert J. Nyman and Thomas P. Kennedy (by vote of the town) relative to establishing a town manager form of government for the town of Hanover; and

By Representative Peisch and Senator Fargo, joint petition (accompanied by bill, House, No. 1124) of Alice Hanlon Peisch and Susan C. Fargo (by vote of the town) relative to the establishment of an enterprise fund for the Brook School Apartments in the town of Weston;

Severally to the committee on Municipalities and Regional Government.

By Representative Madden of Nantucket and Senator O'Leary, joint petition (accompanied by bill, House, No. 1125) of Timothy R. Madden and Robert A. O'Leary (by vote of the town) that the town of Nantucket be authorized to pay a certain amount of money to William J. Higgins, an employee of said town, for lost wages while serving on active duty. To the committee on Public Service.

Woburn,— land
conveyance.

Nantucket,—
historic district
commission.

Nantucket,—
planning
commission.

Hanover,—
town manager.

Weston,—
Brook School
Apartments.

Nantucket,—
William J.
Higgins.

By the same members, joint petition (accompanied by bill, House, No. 1126) of Timothy R. Madden and Robert A. O'Leary (by vote of the town) relative to exempting the Harbor and Shellfish Advisory Board membership of the town of Nantucket from conflict of interest laws regarding discussion of shellfish licensing. To the committee on State Administration and Regulatory Oversight.

Severally sent to the Senate for concurrence.

Petitions severally were presented and referred as follow:

By Mr. Alicea of Charlton, petition (subject to Joint Rule 12) of Geraldo Alicea that the state retirement board grant credit for retirement purposes to Linda C. Dani of the town of Southbridge for service on the school committee of said town.

By Mr. Atsalis of Barnstable, petition (subject to Joint Rule 12) of Demetrius J. Atsalis for legislation to create a narcotics offender registry.

By Mr. Binienda of Worcester, petition (subject to Joint Rule 12) of John J. Binienda relative to providing reimbursement to contracted vendors of regional transit authorities for certain fuel excise tax payments.

By Ms. Benson of Lunenburg, petition (subject to Joint Rule 12) Jennifer Benson and other members of the General Court relative to exempting child car seats from the state sales tax.

By Mr. Donelan of Orange, petition (subject to Joint Rule 12) of Christopher J. Donelan relative to the payment of wages of discharged employees.

By Mr. Fagan of Taunton, petition (subject to Joint Rule 12) of James H. Fagan relative to disclosure of certain financial interests of members of the General Court.

By Mr. Hargraves of Groton, petition (subject to Joint Rule 12) of Robert S. Hargraves and others relative to the treatment of chronic Lyme disease.

By Mr. Jones of North Reading, petition (subject to Joint Rule 12) of Bradley H. Jones, Jr., and other members of the General Court relative to GPS monitoring during pretrial probation.

By Mr. Kane of Holyoke, petition (subject of Joint Rule 12) of Michael F. Kane relative to the regional electric generating project in the city of Westfield known as the Pioneer Valley Energy Center.

By Mr. Murphy of Burlington (by request), petition (subject to Joint Rule 12) of Jim Milligan that the Registrar of Motor Vehicles be authorized to issue personalized registration plates to veterans.

By Mr. Petersen of Grafton, petition (subject to Joint Rule 12) of George N. Petersen and other members of the General Court relative to the pretrial detention of violent offenders.

By Mrs. Poirier of North Attleborough, petition (subject to Joint Rule 12) of Elizabeth Poirier for legislation to provide visitation rights for great grandparents.

By Mr. Sciortino of Medford, petition (subject to Joint Rule 12) of Carl M. Sciortino, Jr., and other members of the General Court relative to banning the possession and use of mobile phones by MBTA operators.

By Ms. Spiliotis of Peabody (by request), petition (subject to Joint Rule 12) of George E. Smith relative to side dishes served by innholders and common victuallers.

By Ms. Reinstein of Revere, petition (subject to Joint Rule 12) of Kathi-Anne Reinstein and Anthony Petruccelli that the city of Revere be reimbursed for the cost of the special state primaries and elections in the First Suffolk and Middlesex Senatorial District.

By the same member, petition (subject to Joint Rule 12) of Kathi-Anne Reinstein and other members of the General Court for the development and implementation of a statewide silver alert system to be activated on behalf of missing senior citizens.

Nantucket,—
harbor and
shellfish
advisors.

Linda C.
Dani,—
retirement.

Narcotics
registry.

Transit
authorities,—
vendors.

Car seats,—sales
tax exemption.

Wages.

Financial
disclosures.

Lyme disease.

Pretrials,—GPS
monitoring.

Pioneer Valley
Energy Center.

Veterans,—
registration
plates.

Violent
offenders.

Great
grandparents.

MBTA
operators,—cell
phones.

Food service.

Revere,—state
primaries.

Silver alert
system.

Severally, under Rule 24, to the committee on Rules.

Papers from the Senate.

Petitions were referred, in concurrence, under suspension of Joint Rule 12, as follows:

Petition (accompanied by bill, Senate, No. 2067) of Stanley C. Rosenberg and Christopher J. Donelan for legislation establishing school regional transportation districts. To the committee on Education.

Schools,—
regional
transportation.

Petition (accompanied by bill, Senate, No. 2068) of Jennifer L. Flanagan and Lewis G. Evangelidis for legislation relative to the Leino Water District. To the committee on Municipalities and Regional Government.

Leino Water
District.

Recesses.

At eight minutes after eleven o'clock A.M., on motion of Mr. Murphy of Burlington (Mr. Donato of Medford being in the Chair), the House recessed until two o'clock P.M.; and at five minutes after two o'clock, the House was called to order with Mr. Finegold of North Andover in the Chair.

Recesses.

The Chair (Mr. Finegold) then declared a further recess, subject to the call of the Chair; and at half past two o'clock, the House was called to order with Mr. Petrolati of Ludlow in the Chair.

Engrossed Bill — Land Taking.

The engrossed Bill authorizing the Department of Fish and Game to acquire conservation restrictions in and to lands owned by the city of Fitchburg (see House, No. 3848) (which originated in the House), in respect to which the Senate had concurred in adoption of the emergency preamble, was put upon its final passage.

Fitchburg,—
land.

On the question on passing the bill to be enacted, the sense of the House was taken by yeas and nays (this being a bill providing for the taking of land or other easements used for conservation purposes, etc., as defined by Article XCVII of the Amendments to the Constitution); and on the roll call 156 members voted in the affirmative and 0 in the negative.

Bill enacted
(land taking),—
yea and nay
No. 141.

[See Yea and Nay No. 141 in Supplement.]

Therefore the bill was passed to be enacted; and it was signed by the Speaker and sent to the Senate.

Reports of Committees.

By Mr. Binienda of Worcester, for the committee on Rules and the committees on Rules of the two branches, acting concurrently, that Joint Rule 12 be suspended on the petition of John J. Binienda for legislation to designate Chapter 397 of the Acts of 2008, relative to the licensing of school bus drivers, as "Darnell's Law". Under suspension of the rules, on motion of Mr. Kulik of Worthington, the report was considered forthwith. Joint Rule 12 was suspended; and the petition (accompanied by bill) was referred to the committee on State Administration and Regulatory Oversight. Sent to the Senate for concurrence.

"Darnell's
Law",—
designation.

By Ms. Khan of Newton, for the committee on Children, Families and Persons with Disabilities, asking to be discharged from further consideration;

Of the petition (accompanied by bill, House, No. 181) of John W. Scibak and others relative to the licensure of behavior analysts,— and recommending that the same be referred to the committee on Consumer Protection and Professional Licensure.

Behavior
analysts.

Of the petition (accompanied by bill, Senate, No. 59) of Mark C. Montigny, Susan C. Tucker, Thomas P. Kennedy, Brian A. Joyce and other members of the General Court for legislation to assist families care for elders,— and recommending that the same be referred to the committee on Elder Affairs.

Families,—care
for elders.

Of the petition (accompanied by bill, Senate, No. 31) of Harriette L. Chandler, John W. Scibak, Patricia D. Jehlen, Susan C. Tucker and other members of the General Court for legislation relative to equitable reimbursement rates for services provided to publicly assisted patients;

Publicly assisted
patients.

Of the petition (accompanied by bill, Senate, No. 39) of Jennifer L. Flanagan, James B. Eldridge, Benjamin B. Downing, Christine E. Canavan and other members of the General Court for legislation to ensure continuity of health coverage for children; and

Children,—
health coverage.

Of the petition (accompanied by bill, House, No. 188) of Christine E. Canavan and others relative to the continuation of eligibility for medical benefits for certain children;

Children,—
medical benefits.

And recommending that the same severally be referred to the committee on Health Care Financing.

By Mr. Kaufman of Lexington, for the committee on Revenue, asking to be discharged from further consideration of the petition (accompanied by bill, House, No. 2737) of John V. Fernandes and others relative to the calculation of income for spouses of nursing home residents,— and recommending that the same be referred to the committee on Elder Affairs.

Nursing home
residents.

Under Rule 42, the reports severally were considered forthwith; and they were accepted. Severally sent to the Senate for concurrence.

By Mr. Straus of Mattapoisett, for the committee on Environment, Natural Resources and Agriculture, on a petition, a Bill relative to the Charlestown Navy Yard (House, No. 4075).

Charlestown
Navy Yard.

By Mr. Koutoujian of Waltham, for the committee on Financial Services, on Senate, No. 452 and House, No. 980, a Bill adopting the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (House, No. 4127) .

Mortgage
licensing act.

Severally read; and referred, under Rule 33, to the committee on Ways and Means.

By Mr. Donato of Medford, for the committee on Municipalities and Regional Government, on a petition, a Bill authorizing the city of Methuen to lease that building formally known as the “Dav Building” to the Head Start Program of the

Methuen,—
“Dav Building”.

Greater Lawrence Community Action Council (House, No. 599).

By Mr. Spellane of Worcester, for the committee on Public Service, on a petition, a Bill establishing a sick leave bank for Angela N. Wilson, an employee of the Department of Youth Services (House, No. 613).

Angela N.
Wilson,—sick
leave.

Severally read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

By Mr. Murphy of Burlington, for the committee on Ways and Means, that the Bill regarding accountability of public utility companies (House, No. 4110) ought to pass with an amendment substituting therefor a bill with the same title (House, No. 4126). Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling, with the amendment pending.

Public utility
companies.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling then reported recommending that the matter be scheduled for consideration by the House, with the amendment pending.

Under suspension of Rule 7A, on motion of Mr. Finegold of Andover, the bill was read a second time forthwith.

Pending the question on adoption of the amendment recommended by the committee on Ways and Means, Mr. Finegold moved to amend the proposed substitute bill in section 1, in line 21, by adding the following sentence: “Notwithstanding the foregoing, this subsection shall not apply to a transmission, distribution, or gas company whose affiliates cumulatively serve more than 100,000 customers and the company and its affiliates perform emergency restoration jointly.” After debate the further amendment was adopted.

The amendment previously recommended by the committee on Ways and Means,— that the bill be amended by substitution of a bill with the same title (House, No. 4126, as amended),— then was adopted.

After debate on the question on ordering the substituted bill to a third reading (the Speaker being in the Chair), the sense of the House was taken by yeas and nays at the request of Ms. Benson of Lunenburg; and on the roll call (Mr. Petrolati of Ludlow having returned to the Chair) 154 members voted in the affirmative and 0 in the negative.

Bill ordered to a
third reading,—
yea and nay
No. 142.

[See Yea and Nay No. 142 in Supplement.]

Therefore the bill was ordered to a third reading.

Subsequently (Mrs. Haddad of Somerset being in the Chair) under suspension of the rules, on motion of Mr. Finegold of Andover, the bill (reported by the committee on Bills in the Third Reading to be correctly drawn) was read a third time; and it was passed to be engrossed, its title having been changed by said committee to read: “An Act relative to public utility companies.”. The bill (House, No. 4126, amended) then was sent to the Senate for concurrence.

Mr. Murphy of Burlington, for the committee on Ways and Means, on House, No. 4109, reported in part, a Bill making appropriations for the fiscal year 2009 to provide for supplementing certain existing appropriations and for certain other activities and projects (House, No. 4125) [Cost: \$29, 911,117.00]. Read; and referred, under Rule 7A, to the committee on Steering, Policy and Scheduling.

Supplementary
appropriations.

Mr. Kafka of Stoughton, for the committee on Steering, Policy and Scheduling

then reported recommending that the matter be scheduled for consideration by the House.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the bill was read a second time forthwith; and it was ordered to a third reading.

At ten minutes after four o'clock P.M., on motion of Mr. Koutoujian of Waltham (Mr. Petrolati of Ludlow being in the Chair), the House recessed until half past four o'clock; and at twenty minutes before five o'clock P.M., the House was called to order by Mrs. Haddad of Somerset.

Recesses.

The Chair (Mrs. Haddad) then declared a further recess, subject to the call of the Chair; and at three minutes before five o'clock the House was called to order by Mr. Donato of Medford.

Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mr. Donato), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 141 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 143.

[See Yea and Nay No. 143 in Supplement.]

Therefore a quorum was present.

Subsequently identical statements of Representatives Basile of Boston and Moran of Boston were spread upon the records of the House, as follows:

MR. SPEAKER: During the taking of the above quorum roll call, I was absent from the House Chamber, on official business in another part of the State House, and was not notified that a quorum roll call was in progress.

Statements of
Messrs. Basile
and Moran.

Under suspension of the rules, on motion of Mr. Murphy of Burlington, the bill (having been reported by the committee on Bills in the Third Reading) was read a third time.

Mrs. Haddad of Somerset having taken the Chair,—
Mr. Jones of North Reading thereupon asked for a count of the House to ascertain if a quorum was present. The Chair (Mrs. Haddad), having determined that a quorum was not in attendance, then directed the Sergeant-at-Arms to secure the presence of a quorum.

Quorum.

Subsequently a roll call was taken for the purpose of ascertaining the presence of a quorum; and on the roll call 152 members were recorded as being in attendance.

Quorum,—
yea and nay
No. 144.

[See Yea and Nay No. 144 in Supplement.]

Therefore a quorum was present.

After debate on the question on passing the bill to be engrossed, Mr. Jones of North Reading and other members of the House moved to amend it by inserting after section 25 the following section:

“SECTION 25A: Section 7 of Chapter 4 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking the second sentence of the eighteenth clause.”.

After debate on the question on adoption of the amendment, the sense of the House was taken by yeas and nays at the request of Mr. Humason of Westfield; and on the roll call 78 members voted in the affirmative and 78 in the negative.

Amendment
rejected,—
yea and nay
No. 145.

[See Yea and Nay No. 145 in Supplement.]

Therefore the amendment was rejected.

Mr. Naughton of Clinton then moved to amend the bill in section 2A, in item 1599-1701, in line 1, by inserting after the word “costs” the words “to certain municipalities

and municipal lighting plants as”; and the amendment was adopted.

Ms. Walz of Boston then moved to amend the bill by inserting after section 25 the following section:

“SECTION 25A. Notwithstanding any general or special law to the contrary, federal grant funds in account numbers 7061-0004 and 7061-0005 distributed to school districts in fiscal years 2009 and 2010 through the State Fiscal Stabilization Fund under Title XIV of the American Reinvestment and Recovery Act of 2009 shall not be subject to indirect charges under section 32A of chapter 35 and section 5D of chapter 40 of the General Laws. Subsection (f) of section 6B of chapter 29 of the General Laws shall not apply to these funds. School districts shall continue to provide for and make contributions to appropriate pension funds, as required by paragraph (c) of subdivision (7) of section 22 of chapter 32 of the General Laws, for employees whose salaries are paid from these federal funds, in the same manner as contributions are made when receiving state education aid under chapter 70 of the General Laws.”.

The amendment was adopted.

On the question on passing the bill, as amended, to be engrossed, the sense of the House was taken by yeas and nays at the request of Mr. Murphy of Burlington; and on the roll call 156 members voted in the affirmative and 0 in the negative.

[See Yea and Nay No. 146 in Supplement.]

Therefore the bill (House, No. 4125, amended) was passed to be engrossed. Sent to the Senate for concurrence.

Bill passed to
be engrossed,—
yea and nay
No. 146.

Order.

On motion of Mr. DeLeo of Winthrop,—

Ordered, That when the House adjourns today, it adjourn to meet the following day at eleven o’clock A.M.

Next
sitting.

Representatives Dempsey of Haverhill, L’Italien of Andover and Stanley of West Newbury then moved that as a mark of respect to the memory of David J. Swartz, a member of the House from Haverhill from 1975 to 1978, inclusive, the House adjourn; and the motion prevailed.

Accordingly, without proceeding to consideration of the Orders of the Day, at thirteen minutes before nine o’clock P.M., on motion of Ms. Ferrante of Gloucester (Mrs. Haddad of Somerset being in the Chair), the House adjourned, to meet on the following day at eleven o’clock A.M., in an Informal Session.

UNCORRECTED PROOF.